

UNITED STATES DISTRICT COURT

Northern District of California

Oakland Division

ANDY NICHOLAW,

No. C 11-04245 LB

Plaintiff,

v.

**ORDER DENYING PLAINTIFF'S  
MOTION FOR PERMISSION TO  
SERVE SUBPOENA**

PETER BUSCH,

Defendant.

On October 13, 2011, Plaintiff filed a motion to permission to serve Defendant with a subpoena requiring Defendant to produce certain documents because Defendant had not responded to Plaintiff's complaint. Motion, ECF No. 9.<sup>1</sup> Defendant had not done so because Defendant had not yet been served. Acknowledgment of Service, ECF No. 12 (Defendant served on October 21, 2011). After he had, Defendant filed a motion to dismiss, which is currently set to be heard by the court on January 5, 2012. MTD, ECF No. 13. In light of Defendant's motion, Plaintiff's motion is DENIED.

This disposes of ECF No. 9.

**IT IS SO ORDERED.**

Dated: November 21, 2011

  
LAUREL BEELER  
United States Magistrate Judge

<sup>1</sup> Citations are to the Electronic Case File ("ECF") with pin cites to the electronic page number at the top of the document, not the pages at the bottom.